



Federal Communications Commission
Washington, D.C. 20554

December 1, 2010

DA 10-2275

Via Certified Mail, Return Receipt Requested

Metro-Trak, LLC
Attn: Davis R. Schwartz, President & CEO
1100 One Financial Plaza
120 South Sixth Street
Minneapolis, MN 55402-1801

**Re: Final Default Payment for Auction 21 Licenses BEA107C (Minneapolis-St. Paul, MN-WI-IA)
and BEA164C (Sacramento-Yolo, CA)**

DO NOT DISCARD THIS IMPORTANT NOTICE
OF A DEMAND FOR PAYMENT
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT

Dear Mr. Schwartz:

This Order provides notice and demands payment of a debt owed to the United States based on Metro-Trak, LLC's ("Metro-Trak") default on its final payment for licenses it won in Auction 21.

Metro-Trak had the winning bid in Auction 21 for Location and Monitoring Service licenses in the Minneapolis-St. Paul, MN-WI-IA and Sacramento-Yolo, CA Basic Economic Area ("BEA"). After the close of Auction 21, Metro-Trak defaulted on its final payment obligation for these licenses.¹ Thus, pursuant to the Commission's rules,² Metro-Trak owes a default payment, which is a debt owed to the United States.³ In 2000, the Commission assessed Metro-Trak initial default payments totalling \$13,397.00, from the monies it had on deposit.⁴ New licenses for the same spectrum were offered in a subsequent auction of Location and Monitoring Service licenses (Auction 39), and because they received

¹ Metro-Trak defaulted on licenses BEA107C (Minneapolis-St. Paul, MN-WI-IA) and BEA164C (Sacramento-Yolo, CA) in Auction 21. See In the Matter of Metro-Trak, LLC, For Multilateral Location and Monitoring Service Auction License – BEA 107C, Minneapolis-St. Paul, MN-WI-IA, *Order*, 15 FCC Rcd 13365 (2000) ("Minneapolis-St. Paul, MN-WI-IA Order") and Metro-Trak, LLC, Request for Extension of Final Payment Deadline for Multilateral Location and Monitoring Service Auction License – BEA164C, Sacramento-Yolo, CA, *Order*, 15 FCC Rcd 13370 (2000) ("Sacramento-Yolo, CA Order," collectively, the "Orders").

² 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

³ 31 U.S.C. § 3701(b)(1).

⁴ 47 C.F.R. § 1.2104(g)(2). See also *Minneapolis-St. Paul, MN-WI-IA Order*, 15 FCC Rcd at 13367 and *Sacramento-Yolo, CA Order*, 15 FCC Rcd at 13374.

winning bids,⁵ the Commission is now able to calculate Metro-Trak's final default payment obligation with respect to the licenses.⁶

Under the Commission's rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid. A bidder who defaults on that obligation or is disqualified is subject to a default payment.⁷ The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time a license for the spectrum is won should the subsequent winning bid be less than the defaulted bid.⁸ The second component of the default payment is an additional payment, which, pursuant to the rule in effect at the time of Auction 21, is equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.⁹ In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted payment.¹⁰

As shown in Attachment A, in accordance with section 1.2104(g)(2) of the Commission's rules, we have completed the final default payment calculation and, after applying the monies Metro-Trak has on deposit, Metro-Trak owes an outstanding balance of \$140,978.50. This debt to the United States is payable in full and without further demand within 30 days of the date of this Order in accordance with the Notice Information provided below and Payment Instructions at Attachment B.

Important Notice Information

The following provides notification of procedures and information required by the Debt Collection Improvement Act of 1996 ("DCIA").¹¹ The outstanding balance shown in Attachment A is a debt Metro-Trak owes to the United States. It is payable in full and without further demand, and payment must be received no later than the payment due date, which is 30 days from the date of this Order ("Due Date").¹² Any portion of the debt unpaid at the end of the Due Date will be considered delinquent and administrative charges (incurred for processing and handling delinquent debts),¹³ interest,¹⁴ and

⁵ See VHF Public Coast and Location and Monitoring Service Spectrum Auction Closes; Winning Bidders Announced, *Public Notice*, 16 FCC Rcd 12509 (2001) ("Auction 39 Closing Public Notice").

⁶ 47 C.F.R. § 1.2104(g)(2).

⁷ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

⁸ 47 C.F.R. § 1.2104(g)(2)(i).

⁹ 47 C.F.R. § 1.2104(g)(2) (2000).

¹⁰ *Id.*

¹¹ Public Law 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996) *codified in relevant part at* 31 U.S.C. §§ 3716 (administrative offset) and 3717 (interest and penalty on claims); *see also* 47 C.F.R. §§ 1.1911, 1.1912, and 1.1940.

¹² As noted at Attachment B, if the 30th day falls on a non-business day, payment must be received on the next business day.

¹³ 31 U.S.C. § 3717(e)(1); 47 C.F.R. § 1.1940(c).

penalties¹⁵ will accrue beginning from that date. Interest accrues at a minimum annual rate established annually by the United States Treasury in accordance with 31 U.S.C. § 3717.¹⁶ A penalty of six percent (6%) accrues on any portion of the debt that remains unpaid for more than 90 days from the Due Date.¹⁷ However, the Commission will waive payment of the accrued interest, if the full amount of the debt is paid within 30 days of the Due Date.¹⁸ In addition to these charges, the Commission may initiate administrative offset,¹⁹ and it may refer the delinquent debt to the United States Treasury or the Department of Justice (“DOJ”) for further collection action.²⁰ The United States Treasury will impose an additional administrative collection charge,²¹ and it may also commence administrative offset.²² An additional surcharge may be imposed, if DOJ initiates judicial action to recover judgment.²³ Furthermore, any portion of the debt that is unpaid after the Due Date is a delinquent debt, which will trigger application of the Commission’s red light procedures at 47 C.F.R. § 1.1910.

The *Orders* establishing Metro-Trak’s default payments are final,²⁴ so this Demand for Payment does not establish additional grounds to request review or reconsideration of Metro-Trak’s default payment obligation.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and section 1.2104(g)(2) of the Commission’s rules, 47 C.F.R. § 1.2104(g)(2), Metro-Trak, LLC is ASSESSED a final default payment obligation as computed in Attachment A.

¹⁴ 31 U.S.C. § 3717(b); 47 C.F.R. § 1.1940(b).

¹⁵ 31 U.S.C. § 3717(e); 47 C.F.R. § 1.1940(d).

¹⁶ 47 C.F.R. § 1.1940(b).

¹⁷ 31 U.S.C. § 3717(e)(2); 47 C.F.R. § 1.1940(d).

¹⁸ 31 U.S.C. § 3717(d) and 47 C.F.R. § 1.1940(g).

¹⁹ 47 C.F.R. § 1.1912. Under this provision the Commission may refer the debt to the United States Treasury for centralized administrative offset whereby, subject to certain exceptions, money otherwise payable to the debtor by the United States government may be used to satisfy the debt. In addition, “unless otherwise prohibited by law,” the Commission may conduct “non-centralized, ad hoc case-by-case offsets when centralized offset is unavailable or inappropriate.” 47 C.F.R. § 1.1912(c).

²⁰ 31 U.S.C. §§ 3711(g), 3716; 28 U.S.C. § 3001, *et seq.*; 47 C.F.R. § 1.1912. Transfer may be made without further notice at any time after the Due Date.

²¹ 31 U.S.C. § 3717(e); 31 C.F.R. § 285.12 (j).

²² 31 U.S.C. § 3716; 47 C.F.R. § 1.1912(b) (mandatory centralized administrative offset).

²³ 28 U.S.C. § 3011.

²⁴ *Minneapolis-St. Paul, MN-WI-IA Order, supra; Sacramento-Yolo, CA Order, supra; see* 47 C.F.R. §§ 1.104 and 1.106.

IT IS FURTHER ORDERED that, pursuant to sections 1.2104 and 1.2106 of the Commission's rules, 47 C.F.R. §§ 1.2104 and 1.2106, Metro-Trak, LLC's interim payment or funds on deposit will be applied towards the final default payment.

IT IS FURTHER ORDERED that Metro-Trak, LLC's debt of \$140,978.50 is payable in full and without further demand, and it must be paid within 30 days of the date of this Order (the Due Date), in accordance with the payment instructions in Attachment B, and any portion of the debt unpaid after the Due Date is delinquent, and under 31 U.S.C. § 3717, administrative charges, interest, and penalties will accrue.

IT IS FURTHER ORDERED that this Order and a FCC Remittance Advice Form (FCC Form 159, Version 2/03) shall be sent to Metro-Trak, LLC and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Margaret W. Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

ATTACHMENT A

Multi-Auction Default Payment Report

License Number Frequency Block	Defaulted Gross Bid Auction 21	Defaulted Net Bid Auction 21	Re-auction Gross Bid Auction 39	Re-auction Net Bid Auction 39	3% Payment	Lower Difference Payment	Final Payment
BEA107C (Minneapolis-St. Paul, MN-WI-IA)	\$509,000.00	\$330,850.00	\$209,000.00	\$135,850.00	\$4,075.50	\$195,000.00	\$199,075.50
BEA164C (Sacramento- Yolo, CA)	\$178,000.00	\$115,700.00	\$134,000.00	\$87,100.00	\$2,613.00	\$28,600.00	\$31,213.00

Total Final Default Payment Due	\$230,288.50
Less Amount on Deposit	\$89,310.00
Outstanding Balance Due on Final Default Payment	\$140,978.50

ATTACHMENT B

The following information is being provided to assist you in making your payment.

PAYMENT INSTRUCTIONS

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by 6:00 PM Eastern Time, no later than thirty days from the date of the ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 021030004

Receiving Bank: TREAS NYC

33 Liberty Street

New York, NY 10045

BNF: FCC/Account #27000001

OBI Field: (Skip one space between each information item)

“AUCTIONPAY”

APPLICANT FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 21)

PAYMENT TYPE CODE (enter “APEN”) same as FCC Form 159, Block 24A

FCC CODE 1 (same as FCC Form 159, Block 28A: “Auction No.”)

PAYOR NAME (same as FCC Form 159, Block 2)

LOCKBOX No.: 979088

A completed FCC Remittance Advice Form (FCC Form 159, Version 2/03) must accompany payments. On the same business day that the applicant submits their wire transfer, the applicant must submit a completed FCC Form 159 via facsimile to U.S. Bank at (314) 418-4232, at least one-hour prior to placing the order for the wire transfer. The specified debt is due and payable to the United States immediately and without demand, and it is subject to interest, penalties, and additional administrative costs. Interest accrues from the date of the ORDER; however, to avoid the payment of charges (i.e., interest, penalties, and administrative costs) and enforced collection, full payment must be made and received within 30 days from the date of the ORDER. Debtor's failure to make complete timely payment will result in assessment of such charges permitted by 31 U.S.C. § 3717.

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578.